

### **REMARKS/ARGUMENTS**

In the Office Action mailed January 12, 2006, claims 1-20 were rejected. By this amendment, Applicants amend claims 1, 6, 11 and 16. Support for the amendments is found in the specification, and no new matter is added. As such, claims 1-20 remain pending in the application.

Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited reference. Therefore, reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the following remarks.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0157497 to Porter *et al.* (hereinafter referred to as "Porter"). Applicants respectfully traverse these rejections. It is axiomatic that the Section 102 rejection is proper "only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference" – i.e., the prior art must teach every aspect of the claim. *See Verdegall Bros. v. Union Oil Co. of California*, 918 F.2d 628, 631 (Fed. Cir. 1987); *see also* M.P.E.P. § 2131.

Porter does not teach or suggest a combination recited by Applicants' claims, as is required for a rejection under 35 § U.S.C. 102(e). For example, Applicants' independent claims 1, 6 and 11, and their dependent claims 2-5, 7-10 and 12-15, respectively, recite in part, an adjustable foot pedal assembly with "a carrier for supporting at least one foot pedal; a guide, guiding the carrier for movement through a limited range along a path of movement; [and]... a control device having a body fixed relative to said guide...."

In contrast, Porter discloses an adjustable pedal assembly having “a stationary mounting plate, a sliding mounting plate that receives at least one of a brake pedal and a throttle pedal,” and a control device affixed to the sliding plate, rather than the stationary plate. (*See* Porter, para. 18, FIGs. 1, 2 & 4.) Thus, Porter does not disclose a combination including “a control device having a body fixed relative to said guide.”

An advantage of Applicants’ “control device having a body fixed relative to said guide” is that securing the guide in fixed relationship to the floor of a vehicle (*see* Applicants’ specification, para. 19), for example, can obviate the need for “flexible hydraulic hoses [to] accommodate movement of the sliding plate while maintaining operational connection with the braking system” (*see* Porter, para. 26). Since “hydraulic or pneumatic ... fluid lines ... would be liable to fail, due to cracking or chafing as a result of repeated flexure” (*see* Applicants’ specification, para. 6), Applicants’ adjustable foot pedal assembly can require reduced maintenance with respect to the adjustable pedal assembly disclosed by Porter.

Thus, Porter does not teach or suggest every aspect of Applicants’ independent claims 1 and 6, and their dependent claims 2-5 and 7-10, respectively, because Porter does not include each and every element, as set forth in Applicants’ claims. At least for these reasons, Applicants respectfully request that the rejections under Section 102 as being anticipated by Porter be removed with respect to claims 1-10.

Similarly, Applicants’ independent claim 16, and its dependent claims 17-20 recite in part, an adjustable foot pedal assembly with “a base that includes a mounting interface to fixedly attach the base to a vehicle floor and a control device opening to fixedly receive a control device; [and] a carrier moveably coupled to the base, the carrier including a foot pedal support....”

In contrast, Porter discloses an adjustable pedal assembly having “a mounting or stationary plate [and a] sliding plate [that] defines openings for receiving fasteners that are employed for attaching pedals ... to the sliding plate” (*see* Porter, para. 33, FIG. 6) and for receiving and fastening a control device to the sliding plate (*see* Porter, FIG. 6). Porter does not

disclose “a base that includes ... a control device opening to fixedly receive a control device.”  
(See Porter, FIG. 6.)

Thus, as explained above, Porter does not teach or suggest every aspect of Applicants’ independent claim 16 and its dependent claims 17-20, because Porter does not include each and every element, as set forth in Applicants’ claims. Therefore, at least for these reasons Applicants respectfully request that the rejections of claims 16-20 be removed under 35 U.S.C. § 102 as being anticipated by Porter.

### CONCLUSION

In view of the foregoing remarks, Applicants respectfully request the rejections be removed and the pending claims allowed. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1567 in an effort to resolve any matter still outstanding before issuing another action. The undersigned attorney is confident that any issue which might remain can readily be worked out by telephone.

In the event this paper is not time filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

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